

June 8, 2004

EPA Region 5 Records Ctr.



387521

BY ELECTRONIC MAIL ONLY

Mr. Ross Jones  
Environ Corporation  
740 Waukegan Road  
Suite 401  
Deerfield, Illinois 60015

Re: Eagle Zinc Site  
Hillsboro, Illinois

Dear Mr. Jones:

This will summarize the agreements reached in our June 2, 2004, meeting:

1) Reasonably anticipated future use. T.L. Diamond will arrange for an enforceable deed restriction on the entire property as soon as possible. That deed restriction will provide that the property will be used only for industrial/commercial purposes. To that end, T.L. Diamond will send a draft deed restriction to U.S. EPA within one week from the date of this letter. After U.S. EPA review and comment, T.L. Diamond will proceed to record the appropriate deed restriction as quickly as possible. T.L. Diamond will forward a copy of the recorded document along with a transmittal letter that also states T.L. Diamond's commitment that it will not transfer the property in whole or in part unless the new owner agrees that the deed restrictions will run with the land. T.L. Diamond will also seek further written documentation from the City of Hillsboro that it supports the deed restriction and that it intends that the property will be used for industrial purposes as part of its overall comprehensive plan. This documentation should also provide as much information as possible about the City's intentions and timing concerning acquisition of the property.

Given T.L. Diamond's commitment to take these steps, and contingent on prompt completion of those steps, U.S. EPA enforcement staff will recommend to U.S. EPA management that future residential use of the property is not reasonably anticipated and so need not be evaluated in the RI/FS process. The Parties expect that the deed restriction will be recorded and effective by the time U.S. EPA approves the human health risk assessment.

2) On-Site Ecological Risk Assessment. U.S. EPA reiterated its position that the screening level ecological risk assessment report must include evaluation of on-site risks. U.S. EPA also provided general confirmation that the on-site risk assessment would follow the same steps as the

off-site risk assessment work. Attached is a technical memorandum providing further detail on the required steps.

As described in their May 24, 2004, Memorandum, the Respondents do not necessarily agree that an on-site risk assessment is needed. The Respondents have agreed to let U.S. EPA know no later than one week from the date of this letter whether they will add on-site risks to the ecological risk assessment report or whether they refuse to do so.

3) Timing of submittals. Within three weeks of the date of this letter, the Respondents will submit detailed responses to U.S. EPA's May 2, 2004, letter providing comments on and requiring revisions to the human health risk assessment. These detailed responses to comments (as adjusted to reflect the agreements described above) will include proposed text changes to the draft human health risk assessment so that a final document can be readily generated after U.S. EPA's review of the detailed responses. This deadline is an agreed modification under Section XVII of the Administrative Order to any other deadline for these revisions that may otherwise apply under Section VI.2.6 of that Order.

If (as described under item 2, above) the Respondents confirm that they will add on-site risks to the ecological risk assessment report, within five weeks of the date of this letter, the Respondents will submit detailed responses to U.S. EPA's May 3, 2004, letter providing comments on and requiring revisions to the screening level ecological risk assessment report (as adjusted to reflect the attached technical memorandum). These detailed responses will include proposed text changes to the screening level ecological risk assessment report so that a final document can be readily generated after U.S. EPA's review of the detailed responses. If (as described under item 2, above) the Respondents refuse to address on-site risks in the ecological risk assessment report, then within three weeks of the date of this letter the Respondents will submit detailed responses to U.S. EPA's May 3, 2004, letter providing comments on and requiring revisions to the screening level ecological risk assessment report. This deadline is an agreed modification under Section XVII of the Administrative Order to any other deadline for these revisions that may otherwise apply under Section VI.2.6 of that Order.

The Parties recognize that some of the "smaller" technical issues raised in U.S. EPA's May 2, 2004 and May 3, 2004, letters were not discussed at the June 2, 2004, meeting. These issues may require follow-up telephone discussions involving the relevant personnel on behalf of U.S. EPA and the Respondents. The Respondents will coordinate with U.S. EPA's Remedial Project Manager to assure that these discussions take place within the next 1-2 weeks so that they do not delay the timing of the submittals.

4) Transmittal of documents. U.S. EPA and T.L. Diamond agreed that this letter and all further written communications under the Administrative Order will be deemed transmitted to the Respondents under Section XIX of that Order when sent by electronic mail to Environ, provided, however, that electronic mail sent after 5 pm Eastern time will be considered to be transmitted on the next following business day. As this agreement requires consent of all Parties, T.L. Diamond

will expeditiously confirm in writing that the other Respondents also agree to this provision. This agreement concerning method of transmittal is in addition to, rather than in lieu of, the other methods described in Section XIX of the Administrative Order.

Please let me know promptly if you have any questions or concerns about these descriptions of the agreements and understandings reached at the June 2, 2004, meeting.

Sincerely yours,

/s/

Thomas J. Krueger  
Associate Regional Counsel

cc: Lois Kimbol, Dechert Price & Rhoads  
Dion Novak, U.S. EPA  
Rick Lanham, Illinois EPA  
Tom Miller, Illinois EPA  
Chris English, CH2M Hill  
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